



Prisoner Appeals

The Court has four different guides concerning prisoner litigation, one for each of the following: civil rights (Section 1983/[Bivens](#)); Section 2254 habeas petition for persons in state custody; Section 2255 motion to vacate, set aside or correct sentence for persons in federal custody; and Section 2241 habeas petition for persons in federal custody and state pre-trial detainees. For more information on your specific type of case, please consult the applicable guide. You may obtain a copy of the guides by contacting the Clerk's Office using the contact information provided at the end of this document.

When can I file an appeal in a prisoner case?

Generally, you may file an appeal after you have obtained the final judgment in your case. [Federal Rule of Appellate Procedure 4\(a\)](#) governs when a notice of appeal in a civil case must be filed. Notices of appeal must be filed with the district court within 30 days of when the judgment or order appealed from is entered. See [Rule 4\(a\)\(1\)\(A\), Rules of Appellate Procedure](#). When the United States or its officer or agency is a party, such as in a 2255 motion, the notice of appeal may be filed within 60 days after the judgment or order appealed from is entered. See Rule 4(a)(1)(B), Rules of Appellate Procedure.

There is an exception to this rule, however, if your case concerns a habeas corpus petition under 28 U.S.C. §§ 2254 or 2255. To file an appeal in a habeas corpus action, you must first receive: (1) a final order that is adverse to you; and (2) a certificate of appealability from the district judge in the final order of your case. See Rule 11, Rules Governing § 2254 Cases and Rule 11, Rules Governing § 2255 Proceedings. If the district court denies the certificate, you must seek a certificate of appealability from the Court of Appeals under Federal Rule of Appellate Procedure 22 when filing your appeal.

What do I need to do to file an appeal?

1. File a Notice of Appeal with the district court; and
2. Pay the \$605.00 filing fee **OR** request to waive the filing fee by submitting a completed "Prisoner Affidavit Accompanying Motion for Permission To Appeal" In Forma Pauperis."

§ 2241 and 2254 Cases: If you were granted IFP status by the district court in your habeas case, you do not need to submit another IFP application with your notice of appeal.



§ 2255 Cases: If you were represented by appointed counsel at the end of your criminal case, you do not need to submit an IFP application on appeal because the filing fee for your appeal will automatically be waived, unless the judge specifically rules otherwise.

Prisoner Civil Rights Cases: You must submit another IFP application with your notice of appeal because the Court must determine the initial partial filing fee and subsequent installment payments required under the Prison Litigation Reform Act. See 28 U.S.C. § 1915(b).

You may contact the Clerk's Office to obtain a Notice of Appeal form. For information on filing a notice of appeal, review [Rules 3 and 4 of the Federal Rules of Appellate Procedure](#).

If the district court denies your IFP application on appeal, you may appeal this determination to the Eighth Circuit Court of Appeals by filing a Motion and Affidavit for Permission to Appeal in Forma Pauperis. You may obtain a copy of this form by contacting the Clerk of Court for the Eighth Circuit Court of Appeals at the following address and phone number:

Eighth Circuit Court of Appeals Clerk's Office
Thomas F. Eagleton Courthouse
Room 24.329
111 South 10th Street
St. Louis, MO 63102

Phone: (314) 244-2400

How do I contact the District Court Clerk's Office?

United States District Court, District of Minnesota Clerk's Office
U.S. Courthouse
300 South Fourth Street, Suite 202
Minneapolis, MN 55415

Phone: (612) 664-5000

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

vs.

Case No.

Defendant(s).

NOTICE OF APPEAL

Pursuant to Fed. R. App. P. 3(c)(1) and 4(a), notice is hereby given that the following parties
(provide the names of all parties who are filing an appeal):

in the above-named case appeal to the United States Court of Appeals for the Eighth Circuit.

The above-named parties appeal from the (indicate whether the
appeal is from a *judgment* or an *order* of the District Court) of the U.S. District Court for the
District of Minnesota that was entered on (date judgment or order was
entered) that:

(If the appeal is from an *order*, provide brief explanation, below, of the District Court's decision in the order. If you are appealing only a portion of the judgment or order, indicate below which part of the judgment or order you are appealing).

Signed this day of

Signature of Party

Mailing Address

Telephone Number

Note: All parties filing the appeal must date and sign the Notice of Appeal and provide his/her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his/her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Plaintiff(s),

**CERTIFICATE OF
SERVICE FOR
SERVICE BY MAIL**

vs.

Case No.

Defendant(s).

(Enter the full name(s) of ALL plaintiffs
and defendants in this lawsuit. Please
attach additional pages, if necessary.)

I hereby certify that on _____ (mm/dd/yyyy), I caused the following
documents: *[List the documents you are going to file and serve.]*

[Check the box, below, that applies to how you served the above documents.]

- ☐ to be filed electronically with the Clerk of Court through ECF and/or
- ☐ that I caused a copy of the foregoing documents (and the notice of electronic
filing, if filed electronically) to be mailed by first class mail, postage paid, to the
following: *[List names and addresses of those served by U.S. Mail.]*

Date:

s/

Signature of filing party

Filer's Typed Name